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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,827	02/04/2002	Scott M. Lewit	5785-30	4819

7590 09/25/2003
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EXAMINER

VO, HAI

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/066,827	LEWIT ET AL.	
	Examiner	Art Unit	
	Hai Vo	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 19-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-27 is/are allowed.
- 6) ☒ Claim(s) 1-10 and 19-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 9, 10 and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lewit (US 6,497,190) as evidenced by Uemura et al (US 5,622,660).

The applied reference has a common inventor with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Figure 1 of Lewit shows a composite part having an integrated flow channel, comprising an elongated foam core 8; one fabric layer 6 secured to the elongated core; and extending along a first elongated side of the foam core, the fabric layer enclosing an elongated channel between the first elongated side of the foam core and the fabric layer. A flow channel media 7 disposed in the elongated channel. Figure 4 further shows the fabric layer 6 encloses at least a second and third

Art Unit: 1771

elongated side of the foam core, each of said second and third elongated sides adjoining the first elongated side. Figure 4 also shows the composite part comprising fabric tab portions extending from the second and third elongated side. Lewit discloses that the flow channel media. Lewit does not specifically disclose that the flow channel media 7 disposed in the elongated channel has less resistance to a flow of resin as compared to the fabric layer 6. Lewit discloses a non-woven fabric layer 14 made of a continuous thermoplastic fiber, needle punched together to yield a felt-like fabric (column 4, line 4). Applicants are using the mesh material of a three dimensional matrix of fibers to form a flow channel (Applicants' specification, page 7, lines 19-21). The evidence can be found in several sources in the art including Uemura et al (US 5,622,660) which teaches that the three dimensional plastic matrix includes a felt-like fabric (column 4, lines 20-22). It is not seen that the felt-like fabric of Lewit would have performed differently from the three dimensional matrix of fibers of the present invention and would have possessed the porosity outside the claimed range. This is in line with *In re Spada*, 15 USPQ 2d 1655 (1990). Products of identical chemical composition can not have mutually exclusive properties. In addition, since the composite part of Lewit appears to meet all the structural limitations as required by the claims and to be commonly used in the boat construction as described in the present invention, it is the examiner's position that the porosity of the non-woven layer would inherently be present to permit the penetration of the foam into the interstices of the non-woven layer. The same token is applied to the fabric layer with respect to claim 19. Since Lewit and Applicants are

Art Unit: 1771

using the same material to form a fabric layer and their composite part are utilized for uses in boat hulls. It is not seen that the fabric layer of Lewit would have had a porosity outside the claimed range. Further, Lewit discloses the foam core filling the interstices of the inner non-woven fabric layer 14 without penetrating into the outer reinforcing fabric layer 13 (figures 2-3, column 3, lines 15-20). It implicitly suggests that the reinforcing fabric layer would have been selected with a porosity sufficient to permit a predetermined amount of resin to escape from the flow channel along the elongated length. Lewit does not specifically disclose that the resin introduced within the elongated channel under pressure will substantially flow along a length of the elongated side. It appears that composite part of Lewit meets all the structural limitations and chemistry required by the claims, it is the examiner's position that the resin introduced within the elongated channel under pressure will substantially inherently flow along a length of the elongated side. It seems from the claim, if one meets the structure recited, the properties must be met or Applicant's claim is incomplete (Note discussion found in Ex parte Slob, 157 USPQ 172). It is the examiner's position that Lewit anticipates the claimed subject matter.

Allowable Subject Matter

3. Claims 22-27 are allowed.
4. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The reasons have been stated in the previous Office Action mailed on 03/20/2003.

Response to Arguments

5. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.
6. The 112 claim rejections and the art rejections in the Office Action mailed 03/20/2003 on have been overcome by the present amendment and response.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (703) 605-4426. The examiner can normally be reached on M,T,Th, F, 8:30-6:00 and on alternating Wednesdays.

Art Unit: 1771

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

HV



TERREL MORRIS
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